

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

BKY No. 09-50779

Dennis E. Hecker,

Chapter 7

Debtor.

**NOTICE OF HEARING AND MOTION FOR AN ORDER
AUTHORIZING SALE OF ASSETS FREE AND CLEAR OF LIENS**

To: Parties specified in Local Rule 9013-3.

1. Randall L. Seaver, the duly-appointed Chapter 7 Trustee in the above-referenced bankruptcy case ("Trustee"), moves the Court for the relief requested below and gives notice of hearing.
2. The Court will hold a hearing on this motion at 10:00 a.m. on June 15, 2011 Courtroom No. 8 West, U.S. Bankruptcy Court, 300 South Fourth Street, Minneapolis, MN 55415 or as soon thereafter as counsel can be heard.

3. Any response to this motion must be filed and delivered not later than June 10, 2011, which is five (5) days before the time for the hearing (including Saturdays, Sundays, and holidays).

**UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT
MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§157 and 1334, Rule 5005 of the Federal Rules of Bankruptcy Procedure, and Local Rules 1070-1 and 1073-1. This is a core proceeding. This case was commenced as a voluntary Chapter 7 proceeding on June 4, 2009. The case is now pending before this Court.

5. This Motion arises under 11 U.S.C. §363(b)(f) and (m) and Bankruptcy Rule 6004.

The Trustee seeks to sell Debtor's 50% ownership interest in H&M Holdings, LLC ("H&M") to Todd A. Montpetit ("Montpetit").

6. Debtor and Montpetit each hold a 50% ownership interest in H&M. Debtor listed his interest in H&M on Exhibit B-13 page 6 of his bankruptcy schedules.

7. H&M is a real estate holding company with one asset, the property at 2520 Lexington Avenue South, Mendota Heights, Minnesota. The property is encumbered with a mortgage in favor of Toyota Financial Savings Bank with a current balance of approximately \$2.4 million. There are unpaid real estate taxes of \$4,418.46.

8. The estimated market value of the property for tax purposes is \$2,180,700.00. Montpetit obtained a broker's opinion of value from Collier's International that, after months of time, a sale could be obtained in the price range of \$1,687,518 to \$1,787,625.

9. There is no equity in the real property.

10. Montpetit is willing to pay the estate \$6,000.00 for the Debtor's interest in H&M.

11. The H&M limited liability documents contain a restriction on pledging or assigning the member interests. The claims of the lenders who may claim blanket security interests attaching to these member interests are therefore in *bona fide* dispute enabling the Trustee to sell assets free and clear.

12. The sale will be free and clear of any such interests and the interests of any purposed secured creditors will attach to the sale proceeds with the same dignity and priority as those purportedly held at the commencement of this case.

13. Pursuant to Local Rule 9013-2(c), the Trustee gives notice that he may, if necessary, testify at the hearing regarding the proposed sale.

WHEREFORE, the Trustee moves the court for an order as follows:

1. Authorizing the sale of the Debtor's 50% interest in H&M Holdings, LLC to Todd A. Montpetit for the sum of \$6,000.00, with any claimed liens of any claimed secured parties attaching to the sale proceeds with the same dignity and priority as those claimed liens held at the commencement of this case.

**LEONARD, O'BRIEN
SPENCER, GALE & SAYRE, LTD.**

Dated: May 17, 2011

/e/ Matthew R. Burton
By _____
Matthew R. Burton, #210018
Attorneys for Randall L. Seaver, Trustee
100 South Fifth Street, Suite 2500
Minneapolis, Minnesota 55402
(612) 332-1030

VERIFICATION

I, Randall L. Seaver, Trustee of the Bankruptcy Estate of Dennis E. Hecker, the moving party named in the foregoing Notice of Hearing and Motion for an Order Authorizing Sale of Assets Free and Clear of Liens, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

/e/ Randall L. Seaver

Dated: May 17, 2011

Randall L. Seaver, Trustee

438709

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

BKY No.: 09-50779

Dennis E. Hecker,

Chapter 7

Debtor.

UNSWORN CERTIFICATE OF SERVICE

I hereby certify that on May 17, 2011, I caused the following documents:

Notice of Hearing and Motion for an Order Authorizing Sale of Assets Free and Clear of Liens and Order (proposed)

to be filed electronically with the Clerk of Court through ECF, and that the above documents will be delivered by automatic e-mail notification pursuant to ECF and this constitutes service or notice pursuant to Local Rule 9006-1(a).

I further certify that I caused a copy of the foregoing documents to be mailed by first class mail, postage paid, to the following:

SEE ATTACHED SERVICE LIST

/e/ Stephanie Wood

Dated: May 17, 2011

Stephanie Wood
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(612) 332-1030

438967

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

BKY No. 09-50779

Dennis E. Hecker,

Chapter 7

Debtor.

**ORDER AUTHORIZING SALE OF ASSETS OF DEBTOR
FREE AND CLEAR OF INTERESTS**

The above matter came before the court on the motion of Randall L. Seaver, trustee seeking an order authorizing sale of assets free and clear of interests.

Based on the motion and the file,

IT IS ORDERED:

1. The trustee is authorized to sell to Todd A. Montpetit all of the debtor's equity interest in H&M Holdings, LLC for the sum of \$6,000.00.
2. The property and rights sold shall be free and clear of any interest in such property pursuant to 11 U.S.C. §363(a), (b) and (f) with such interests, if any, attaching to the proceeds of sale with the same priority, dignity and effect as such interests existed pre-petition.
3. Notwithstanding Fed. R. Bankr. P. 6004(g), this order is effective immediately.

Dated: _____

438748

United States Bankruptcy Court Judge